

Mason, San Patricio, Live Oak, Donley, Young, Comal, Wilson and Atascosa, passed at the present session of the Eighteenth Legislature as relates to the county of Houston, be and same is hereby in all things repealed.

SEC. 2. Whereas the crowded condition of the docket of the district court of said county, and the near approach of the close of this session creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended and that this act take effect and be in force from and after its passage, and it is so enacted.

Approved April 13, 1883.

Takes effect after passage.

CHAPTER LXXXVIII.

An Act to provide for the classification, sale and lease of the lands heretofore or hereafter surveyed and set apart for the benefit of the Common School, University, the Lunatic, Blind, Deaf and Dumb and Orphan asylum funds.

SECTION 1. Be it enacted by the Legislature of the State of Texas: That all lands heretofore or hereafter surveyed and set apart for the benefit of the Common School, University, the Lunatic, Blind, Deaf and Dumb and Orphan asylum funds may be sold and leased as hereinafter provided.

SEC. 2. There shall be and is hereby created a State Land Board which shall be composed of the Governor, Attorney General, Comptroller, Treasurer and Commissioner of the General Land Office, who shall exercise the powers and perform the duties hereinafter prescribed.

SEC. 3. The said State Land Board shall, under such regulations as they may prescribe, cause the said land to be classified into agricultural, pasture and timber lands and ascertain which tracts have permanent water on them, or bordering on them and cause a tabulated statement of the land in each county to be made, showing the number of the survey, block, quantity in each survey name of company or individual to whom the certificate was granted, the value of the improvements and the owner and such other descriptions and information as may be deemed necessary, and a permanent record thereof shall be made and preserved in the General Land Office, and a copy of such record relating to a county shall be forwarded to the surveyor of such county or land district in which the land is situated; but nothing herein shall be construed to require any further classification of such of said lands as have already been classified, unless the State Land Board shall believe that the same is necessary to ascertain the true value or class of such land.

SEC. 4. Said land shall, in no case be sold for less than two dollars per acre for surveys of land without water on them or bordering on them, nor for less than three dollars per acre for land with permanent water on them or bordering on them, nor less than five dollars per acre for land having timber thereon suitable for lumber, nor for less than two dollars per acre for land having timber thereon not suitable for lumber and classed as timbered lands.

SEC. 5. Any actual settler upon any land included in this act who is now and was an actual settler in good faith on the first day of Janu-

ary A. D. 1883, shall have the right, for a period of six months from the time the land shall be placed upon the market for sale, to purchase not less than one hundred and sixty acres nor more than six hundred and forty acres of the land so settled upon, at the minimum price fixed by this act, and on the terms and rate of interest fixed by this act; provided, however, that any actual settler in good faith upon any lands in any county which have been appraised by the proper surveyor, and such appraisal has been approved by the commissioners' court of the proper county, in accordance with the provisions of sections two and three of the act approved April 6, A. D. 1881, concerning the sale of alternate sections of school lands in organized and unorganized counties of this State, and such appraisal has been filed in the General Land Office, but which lands have or have not been placed upon the market under such appraisal, shall be permitted to purchase not less than one hundred and sixty acres (unless there is a fraction of less than one hundred and sixty acres now existing) nor more than six hundred and forty acres of the land upon which they have settled (to include their improvements), at the price per acre fixed by such appraisal; but shall be required to pay the rate of eight per cent interest, as fixed by said act of April 6 A. D. 1881, and shall be permitted to pay all or any part of the purchase money thereof at any time. Such purchaser shall, in all other respects, conform to the provisions of this act; provided, however, that any such person desiring to purchase any of said lands so appraised, shall within six months from the time this act takes effect, file in the General Land Office his application to purchase said land describing it, and on payment of one thirtieth of the purchase money and one year's interest, and forwarding his affidavit stating that he is and was, on the first day of January, A. D. 1883, an actual settler in good faith upon said land, and that he settled on it with a view to purchase it, together with the affidavit of at least two credible citizens of his county showing that such applicant is and was a settler in good faith upon said land; provided, however, that such land having timber thereon suitable for lumber or shingles, and chiefly valuable on that account, shall be sold for cash only, and may be purchased in quantities of not less than eighty acres nor more than three hundred and twenty acres; and provided further that other timbered lands may be purchased at two dollars per acre; and provided further, that no preference in the right of purchase given by this or any other section of this bill shall extend to or include any minerals, but the same shall remain the property of the respective funds to which said lands belong.

SEC. 6. The lands, when placed upon the market, shall be sold in the county or land district in which it is situated, by such authority and under such system of competition as may be prescribed by said Land Board; provided, that no person, either in person or by an agent, shall purchase from the State more than one section of land classed as agricultural land, or as watered land, and seven sections of unwatered pasture land; provided, the board may, in their discretion, require the purchaser of any particular section of watered pasture land to take with the same such a number of dry sections as they may designate, not to exceed seven sections: and every attempt to evade the limitation of this act as to the amount or class of land one may purchase, by any device whatever, shall be deemed fraudulent, and the fraud may be shown and the purchase cancelled by the State within one year from the date of sale; provided, that the agricultural lands shall be sold only to actual settlers: and provided further,

that no person shall be permitted to purchase more than three sections of six hundred and forty acres within five miles of the geographical centre of any county. No corporation shall be permitted to acquire title to more than one section of land in any one county.

SEC. 7. Until otherwise prescribed by the board, the land shall be placed upon the market in the following manner: when the tabulated statement shall have been forwarded to the surveyor of the county or land district and the board shall have designated some one to represent the State in the disposition of the land in such county or land district and notice of such facts shall under direction of the board, have been published in not more than three newspapers of the State, and shall have been published under the direction of the person authorized to sell, for thirty days in the section where the land is situated, the lands of such county or land district shall be considered upon the market for sale, and the person designated to represent the State shall receive bids for the same.

SEC. 8. The person desiring to purchase any of said lands shall file his application with the person authorized to sell, designating the particular section, or tract less than a section, which he desires to purchase and accompany it with a sufficient sum of money to pay for advertising the bid in such manner as may be prescribed by the board, and on the first Tuesday of the month designated in the advertisement, and after at least twenty days notice, the person having authority shall sell the same to the highest and best bidder, at the court house of the county in which it is situated if in an organized county or if an unorganized county at the court house door of the county to which it is attached for surveying purposes. The application shall be considered the first bid unless raised before offered at public outcry, and any one desiring to raise the bid may do so by notifying the seller in writing at any time before it is put up at public outcry or orally at the public auction. No bid shall be received at a less sum than the minimum price fixed by law, nor shall any fraction of less than one hundred and sixty acres be left by such sale, nor shall any fraction of less than three hundred and twenty acres be divided: nor shall such section be divided into other than half a quarter section. Should the person advancing the sum of money for advertising the bid as above provided, not become the purchaser of the land bid for, said money shall be returned to him and collected from the purchaser: provided that no sale of agricultural land shall be perfected until the proposed purchaser files an affidavit that he intends that the land shall be actually settled within six months: and in case of failure to settle the same within that time, the proposed purchaser shall forfeit the money already paid on the land.

SEC. 9. The purchaser shall at once pay to the person selling for the State, or to the State Treasurer, as the board may determine, and within such time as it may fix one-thirtieth of the amount bid, and execute his obligation for the remainder of the purchase money, payable to the State of Texas, and binding the purchaser to pay one-thirtieth of the whole price on the first day of each succeeding year until the whole is paid, and interest at the rate of five per cent per annum on the whole unpaid purchase money from date, payable annually on or before the first of March of each year; and, provided, that after the expiration of seven years, the purchaser shall have the option to pay the unpaid principal, and providing that a failure to pay the annual installments of principal shall not work a forfeiture until the whole sum is due; provided, that upon

proof of actual occupancy, use and improvements for three consecutive years, the purchaser shall be permitted to pay all of the purchase money remaining unpaid: provided further, that any person acting as agent or attorney for another in the purchase of any of said lands shall file with the person authorized to sell a legally executed power of attorney from his principal, or other instrument of writing from a court of competent authority to invest him with powers to consummate a contract.

SEC. 10. If upon the first day of March of any year the interest due remains unpaid the custodian of the obligation of the purchaser shall endorse on it "lands forfeited," and the account kept with the purchaser shall show such failure to pay and such forfeiture; the failure to pay the interest shall ipso facto work a forfeiture and the entry on the account shall be evidence of the fact, and there shall be no necessity for judicial ascertainment of the facts of the forfeiture: and no defaulting purchaser or those claiming under him, shall evade or avoid the effect of such forfeiture at once by reason of any statute or law, which for coverture infancy or the like would otherwise give them additional time for payments or action, except as follows: Should any purchaser die, the representative or heirs of the deceased shall have one year within which to pay the interest due on the first of March next after such death.

SEC. 11. The person authorized to make sales shall receive such obligations for the State and account for the money and notes received by him at such times and in such manner as may be prescribed by the board.

SEC. 12. That in case any purchaser desires to sell the land purchased by him, he may do so after his first payment and in case of such sale, his vendee shall file in the office of the custodian of the original obligation of his vendor, a properly authenticated transfer signed by said vendor and vendee, duly acknowledged and recorded, in the proper county, and said vendee shall thereby assume the obligation and be liable to the penalties imposed upon the original purchaser, and said original purchaser shall thereby be relieved from any further liability upon his obligation.

SEC. 13. Upon payment of all the purchase money and interest upon notes given for the land under this act the Commissioner of the General Land Office shall issue a patent to the purchaser, or his assigns, or heirs, upon payment of the fees prescribed by law; provided, that no patent so issued shall include more than six hundred and forty acres, nor shall it contain portions of any other sections, provided further, that no patent shall issue to agricultural lands until proof of actual settlement shall be made in such manner as may be prescribed by the board.

SEC. 14. The minerals on all lands sold or leased under this act are reserved by the State for the use of the fund to which the land now belongs.

SEC. 15. The said Land Board shall cause the timber on the school land suitable for lumber or shingles to be sold at not less than five dollars per acre, cash, no less than six hundred and forty acres shall be included in one sale. The purchaser shall be required to remove the timber sold within a specified time, not exceeding four years. The board shall appoint such agents and make such regulations relating to the sale of said timber as may be necessary, in their judgment, to effect the object herein sought. Land which has on it timber suitable for lumber and shingles shall not be sold except to actual settlers and at a price not less than five dollars per acre under such regulations as the board may prescribe in tracts of not less than one hundred and sixty acres nor more than six hundred and forty acres, the Land Board shall in every sale of

timber or timbered land where the timber is suitable for lumber or shingles, make such provision in the sale as will protect the timber from trespass on adjacent land embraced by this act not sold; provided, that if any purchaser of said timbered land, before final and full payment, shall cut, sell or destroy or permit any one else to cut or destroy any more timber than is necessary in clearing and improving said lands, and for firewood and building purposes, he shall forfeit all claim to said land, and in case of any violation of this provision of this act it shall be the duty of the proper district or county attorney to institute suit in the district court of the county in which the land is situated in the name of the State, against any such purchaser, to have such forfeiture duly adjudged and executed and a judgment entered for the State for such damages as may be established on the trial of said cause.

SEC. 16. Pasture lands or agricultural lands not timbered, may be leased in suitable quantities for stock and rancho purposes for not less than four cents per acre per annum and for periods not exceeding ten years, by such agents and under such regulations as the board may prescribe. The regulations shall provide for competition. Leases shall be made in the localities where the land is situated. Where there is an application for both sale and lease the sale shall have the preference.

SEC. 17. All lands leased shall remain subject to purchase for actual settlement in bodies not to exceed six hundred and forty acres; but before said purchaser shall be permitted to buy leased land he shall swear that he intends to actually settle on it and until he does actually settle, build and fence thereon the lessee shall remain in possession; provided, that when the lessee has but one watered section leased from the State in the same vicinity, such section shall not be subject to sale and settlement during the term of the lease; and provided further, that when a sale is made of leased land then the lessee shall be entitled to have a pro rata of any rent which he shall have paid in advance, refunded him by the Treasurer of the State upon warrant drawn by the Comptroller by order of the Land Board; provided, that no enclosure bordering on, along or across any stream of water shall be of a width of more than four miles and a space of at least forty yards shall be left open between all such enclosures.

SEC. 18. The said Land Board shall have the power to employ and discharge such persons as may be necessary to enable them to cause this act to be efficiently executed, and fix their compensation and may delegate to them such powers as may be necessary to enable them to aid in carrying out the provisions of this act. The expenses of selling and leasing the School, University or the Lunatic, Blind, Deaf and Dumb or Orphan Asylum lands shall be paid out of the proceeds of the sales and leases, except that paid by the purchaser under such regulations as the said board may prescribe.

SEC. 19. All laws and parts of laws in conflict herewith are hereby repealed.

SEC. 20. The fact that there is no law authorizing the sale and lease of the land herein for a sufficient price under fair competition, and the fact this measure may fail, if it is delayed to come up in regular order, creates an imperative public necessity and emergency that the rule requiring this bill to be read on three several days be suspended; and that this act shall take effect from and after its passage, and it is so enacted.

Approved April 12, 1883.

Takes effect ninety days after adjournment.